

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sarah Milardo	Team: Team # 2	CCRB Case #: 201401800	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 02/11/2014 3:00 PM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 8/11/2015	EO SOL 8/11/2015	
Date/Time CV Reported Wed, 02/19/2014 1:40 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 02/24/2014 4:34 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Johnny Lau	10650	940362	067 PCT
2. LT John Loprest	00000	879106	067 PCT
3. SGT Craig Petrowski	03029	943679	PBBS
4. POM Steven Acevedo	16469	949959	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM John Denora	17456	951675	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Craig Petrowski	Abuse: Sgt. Craig Petrowski participated in the entry of § 87(2)(b) in Brooklyn.	§ 87(2)(b)
B.POM Johnny Lau	Force: PO Johnny Lau used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Steven Acevedo	Force: PO Steven Acevedo used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Steven Acevedo	Abuse: PO Steven Acevedo refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On February 19, 2014, § 87(2)(b) filed a complaint over the phone with the Internal Affairs Bureau Command Center and it was received by the CCRB on February 24, 2014. On February 11, 2014, at approximately 3 p.m., § 87(2)(b) was involved in a dispute with her neighbor, § 87(2)(b) in front of her home at § 87(2)(b) in Brooklyn. The police responded and § 87(2)(b)'s mother, § 87(2)(b) was placed under arrest. The following allegations resulted:

Allegation A – Abuse of Authority: Sgt. Craig Petrowski participated in the entry of § 87(2)(b) in Brooklyn.

Allegation D – Abuse of Authority: PO Steven Acevedo refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(g)

Allegation B – Force: PO Johnny Lau used physical force against § 87(2)(b)

Allegation C – Force: PO Steven Acevedo used physical force against § 87(2)(b)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

This case was ineligible for mediation.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

Statements to 911 (encl. F1)

§ 87(2)(b) reported an emergency at § 87(2)(b) in Brooklyn, stating that the neighbor was harassing and stalking her and her kids. As § 87(2)(b) went to pick up her kids from school, the neighbor almost struck her and her son with his car.

CCRB Statement (encl. D8-D10)

§ 87(2)(b) was interviewed at the CCRB on March 25, 2014.

On February 11, 2014, at approximately 3 p.m., § 87(2)(b)'s neighbor, § 87(2)(b) tried to strike § 87(2)(b) and her young son with his car while she was at a bus stop near her home at § 87(2)(b) in Brooklyn. § 87(2)(b) had an active no-contact or third-party contact order of protection against § 87(2)(b)'s mother, § 87(2)(b) privately owned the single-family home and § 87(2)(b) returned there to call the police.

Approximately four marked police cars arrived, including an SUV occupied by an officer who § 87(2)(b) referred to as a captain in a white shirt, identified via investigation as Lt. John Loprest. Lt.

Loprest remained seated in his vehicle for the entirety of the incident. § 87(2)(b) watched from the window as § 87(2)(b) explained what happened. The officers then went to § 87(2)(b)'s home and he exited and displayed the order of protection against § 87(2)(b). § 87(2)(b) went to the doorway of her home and cried and screamed that § 87(2)(b) abused the order of protection. § 87(2)(b) denied that § 87(2)(b) made any threats or even spoke directly to § 87(2)(b). Lt. Loprest stated, "Why is she at the door? Go get her." § 87(2)(b) dragged § 87(2)(b) away from the doorway and to a couch in their living room.

One to two minutes later, PO1, described as a white man with blond hair, blue eyes, standing 6' tall and in his mid-30s, PO2, identified via past experience as PO Johnny Lau and described as an Asian man standing 5'7" to 5'8" tall, in his late 30s, wearing glasses, and PO3, described as a Hispanic man with thick spikey hair, wearing glasses, in his mid-40s, standing 5'4" to 5'6" tall, started towards their doorway. PO1 and PO3 were identified via investigation as Sgt. Craig Petrowski and PO Steven Acevedo, respectively. § 87(2)(b) pulled the first glass door slightly shut, but the main door stayed opened. Sgt. Petrowski stayed outside and never entered the home.

PO Acevedo opened the door and walked past § 87(2)(b) while stating that he needed to see § 87(2)(b). § 87(2)(b) asked why and tried to block him. § 87(2)(b) and PO Lau followed PO Acevedo through the foyer to the living room, which was partially visible from the front door. § 87(2)(b) was seated on the couch and the officers told her that she was under arrest. § 87(2)(b) cried hysterically and asked why as she had not done anything.

§ 87(2)(b) remained seated on the couch as PO Lau grabbed her wrist. § 87(2)(b) pulled her arm up and behind herself while continuously asking why she was being arrested. PO Lau told § 87(2)(b) that she needed to go with the officers and bent and twisted her arm behind her. PO Lau finally told her that she was arrested for violating an order of protection. § 87(2)(b) tried to step in between the officers and § 87(2)(b) and grabbed at PO Acevedo.

After approximately one minute, § 87(2)(b) rose from the couch and PO Acevedo placed her in handcuffs. § 87(2)(b) denied that § 87(2)(b) resisted. PO Acevedo and PO Lau pulled and nudged § 87(2)(b) along, causing commotion in the foyer. § 87(2)(b) hit certain parts of her body against the wall as the officers pulled her and she continued to shout for clothes. § 87(2)(b) asked PO Acevedo for his name and shield number as they brought § 87(2)(b) out of the house. He responded that he did not have to provide this information. She did not request this information from Sgt. Petrowski or PO Lau.

§ 87(2)(b) fell when the officers took her over a mound of snow to get to their police car. She hit the side of her leg or her stomach, thus cracking her pelvis. The officers then drove § 87(2)(b) to the stationhouse.

Victim: § 87(2)(b)

- § 87(2)(b)

Arrest Photo and Personal Injury Photos (encl. D12-D16, D23-D24)

§ 87(2)(b)'s arrest photo did not reveal any apparent injuries. Photos were provided to the CCRB by § 87(2)(b) and § 87(2)(b) of various small bruises along § 87(2)(b)'s forearms and one on the interior of her right ankle.

CCRB Statement (encl. D21-D22)

On May 2, 2014, § 87(2)(b) was interviewed at her home at § 87(2)(b) in Brooklyn. § 87(2)(g)

§ 87(2)(b) heard crying and loud voices from outside her home. She rose from the couch and used her cane to walk to the front door. § 87(2)(b) told § 87(2)(b) that § 87(2)(b) tried to run her over with his car. § 87(2)(b) told § 87(2)(b) to come inside and to call 911. § 87(2)(b) did not say anything to § 87(2)(b) threaten him, or see him at all prior to this. She did not tell § 87(2)(b) to contact § 87(2)(b) for her.

Shortly thereafter, a police car arrived and officers spoke to § 87(2)(b) outside while § 87(2)(b) stayed inside. § 87(2)(b) saw § 87(2)(b) exit his home and show the order of protection to Lt. Loprest. § 87(2)(b) screamed at the officers not to allow § 87(2)(b) to use the order of protection against § 87(2)(b). § 87(2)(b) returned to the couch when PO Acevedo, Sgt. Petrowski, and PO Lau entered her home. PO Lau told § 87(2)(b) multiple times to stand up and that she was going to jail. She did not comply as she wanted to know why.

Sgt. Petrowski observed while PO Acevedo grabbed her left arm and PO Lau grabbed her right arm. PO Lau's fingernail scratched § 87(2)(b)'s arm, resulting in an abscess due to her diabetes. The officers tried to handcuff her while she was still seated, but were unable to do so until she stood up. The officers pulled § 87(2)(b) towards the door and she struck her foot on a chair, causing her ankle to swell.

§ 87(2)(b) almost fell in the snow as the officers pushed her head down when putting her into the patrol car. She hit her butt, back, and hip on the door. § 87(2)(b) was charged with threatening to kill § 87(2)(b) with a gun. § 87(2)(b) denied doing this.

Unofficial Medical Documents

For a copy of the medical documents provided by § 87(2)(b) see enclosures.

Witness: § 87(2)(b)

- § 87(2)(b) a black man, was § 87(2)(b) old at the time of the incident.

Phone Statement (encl. D30)

§ 87(2)(b) contacted the CCRB on June 3, 2014 and provided a brief statement. § 87(2)(g)

§ 87(2)(b) was outside when § 87(2)(b) yelled out of her house a threat to kill him. He was not sure if she had any sort of weapon when she said this. § 87(2)(b) told § 87(2)(b) to call the police to have him arrested. The officers spoke with § 87(2)(b) and he produced the order of protection. § 87(2)(b) described § 87(2)(b) to the officers, but she was also standing in the doorway. Three or four officers went into § 87(2)(b)'s home and removed her while she was in handcuffs. § 87(2)(b) did not see the officers do anything physical towards § 87(2)(b) aside from assist her.

NYPD Statements:

Subject Officer: PO JOHNNY LAU

- *PO Lau, an Asian man with black hair and brown eyes, stands 5'10" tall and weighs 185 pounds. He was § 87(2)(b) old at the time of the incident.*
- *PO Lau worked from 7:05 a.m. to 3:40 p.m. as sergeant's operator with Sgt. Craig Petrowski. He was dressed in uniform and assigned to marked vehicle #4910.*

Memo Book (encl. E16-E18)

2:48 p.m., assault in progress at § 87(2)(b) 3:05 p.m., one under by 67C, 67K transport.

CCRB Statement (encl. E21-E23)

PO Lau was interviewed at the CCRB on June 19, 2014.

Prior to this incident, PO Lau responded to the incident location in regards to a dispute between § 87(2)(b) and § 87(2)(b) which resulted in § 87(2)(b) receiving an order of protection against § 87(2)(b).

On February 11, 2014, at approximately 3 p.m., PO Lau and his partner, Sgt. Petrowski, received a radio call of a dispute at § 87(2)(b) in Brooklyn. Upon arrival, PO Lau spoke with § 87(2)(b) who produced an order of protection and said that § 87(2)(b) threatened him. PO Lau could not recall § 87(2)(b) alleging that § 87(2)(b) had any weapons. Other officers present were Lt. Loprest, PO Acevedo, and PO Acevedo's partner, PO Michael Lombardi.

PO Lau confirmed that the order of protection was valid and specified that § 87(2)(b) was to refrain from any form of harassment or menacing against § 87(2)(b). As PO Lau interviewed § 87(2)(b) stepped completely outside of her home and cursed at § 87(2)(b). PO Lau could not recall the context of her statements, though he did not witness her make any threats. She did not appear to have any weapons on her person.

As PO Lau conferenced with Sgt. Petrowski, § 87(2)(b) went inside her home. Sgt. Petrowski told PO Lau to arrest § 87(2)(b). PO Lau could not recall seeing Sgt. Petrowski conference with Lt. Loprest prior to giving PO Lau this order. Nothing was done to affect § 87(2)(b)'s arrest, including telling her that she was under arrest, while she was outside. No one explicitly ordered PO Lau to enter the home, he was only ordered to arrest her. PO Lau and PO Acevedo entered the residence through the front door, which was already opened, with the intention of effecting § 87(2)(b)'s arrest. PO Lau did not believe that Lt. Loprest ever exited his vehicle. PO Lau never heard him shout orders to the officers or the civilians throughout the incident.

PO Lau informed § 87(2)(b) that she was under arrest for violating an order of protection. She stated she did not do anything wrong and sat down on a couch in the living room. § 87(2)(b) stiffened her arms when PO Lau and PO Acevedo tried to handcuff her. PO Lau could not recall which officer was on which side of § 87(2)(b). § 87(2)(b) was nearby with a young child and yelled at the officers. PO Lau could not recall her statements. PO Lau told § 87(2)(b) once or twice to stop resisting, but she kept stating that she had done nothing wrong. Eventually, PO Lau and PO Acevedo lifted § 87(2)(b) by her arms to a standing position. She was handcuffed in less than a minute.

PO Lau and PO Acevedo escorted § 87(2)(b) outside and to a marked patrol car. She did not limp, and

she did not need any assistance walking. § 87(2)(b) did not appear injured as a result of the officers' interaction with her. § 87(2)(b) followed § 87(2)(b) and asked PO Lau and PO Acevedo for their name and shield numbers. PO Lau provided his verbally. He could not recall hearing PO Acevedo announcing his name or shield number. § 87(2)(b) was transported to the precinct stationhouse.

Subject Officer: PO STEVEN ACEVEDO

- *PO Acevedo, a Hispanic man with black hair and brown eyes, stands 5'10" tall and weighs 220 pounds. He was § 87(2)(b) old at the time of the incident.*
- *PO Acevedo worked from 7:05 a.m. to 3:40 p.m. and was assigned to patrol sectors K and P with PO Michael Lombardi. He was dressed in uniform and assigned to vehicle #3938.*

Memo Book (encl. E24-E26)

2:48 p.m., § 87(2)(b) assault in progress. 3:08 p.m., transporting female to 67th Precinct.

CCRB Statement (encl. E29-E30)

PO Acevedo was interviewed at the CCRB on July 1, 2014. § 87(2)(g)

PO Acevedo never responded to this location prior to this incident and he did not know of § 87(2)(b) or § 87(2)(b). As PO Lau and PO Acevedo spoke with § 87(2)(b) was outside her home, swearing and threatening § 87(2)(b). PO Acevedo could not recall the substance of the threats, but he did not remember anything being said about a gun.

§ 87(2)(b) went inside her house and it was decided that she would be placed under arrest. Approximately 30 seconds to two minutes later, PO Lau and PO Acevedo followed § 87(2)(b) into her home and into the living room. § 87(2)(b) was not informed that she was under arrest until both officers were already in the living room of her home.

The officers asked § 87(2)(b) to stand up from the couch and explained that she was under arrest. While either standing or sitting, § 87(2)(b) flailed her arms making it difficult to handcuff her. She was ultimately handcuffed after approximately thirty seconds. PO Acevedo could not recall if she complained of any injuries, but she did not appear to have any. § 87(2)(b) followed behind the officers as they escorted § 87(2)(b) out of her residence. § 87(2)(b) spoke very fast and in a very high tone of voice, therefore, PO Acevedo could not understand what she was saying. PO Acevedo could not recall her asking for any officers' name or shield numbers. He did not remember himself providing this information.

Subject Officer: SGT. CRAIG PETROWSKI

- *Sgt. Petrowski, a white man with blond hair and green eyes, stands 6'2" tall and weighs 190 pounds. He was § 87(2)(b) old at the time of the incident.*
- *Sgt. Petrowski worked from 6:55 a.m. to 3:52 p.m. assigned to patrol supervisor with PO Johnny Lau. He was dressed in uniform and assigned to marked vehicle #4910.*

Memo Book (encl. E31-E32)

2:40 p.m., assault in progress at § 87(2)(b) 3:10 p.m., one under by sector for § 87(2)(b).

CCRB Statement (encl. E35-E37)

Sgt. Petrowski was interviewed at the CCRB on July 11, 2014. § 87(2)(g)

Sgt. Petrowski “probably” told other officers to place § 87(2)(b) under arrest, but he could not confirm this. § 87(2)(b) was not given any indication that she was under arrest when she was outside of her home. Sgt. Petrowski never received any orders from Lt. Loprest. Sgt. Petrowski, PO Lau, and PO Acevedo entered § 87(2)(b)'s living room and Sgt. Petrowski observed as PO Lau and PO Acevedo handcuffed her. He could not recall there being any struggle. Sgt. Petrowski could not recall hearing anyone asking any of the officers for their names and badge numbers. Sgt. Petrowski never heard PO Acevedo state that he did not have to provide his name or shield number.

Subject Officer: LT. JOHN LOPREST

- *Lt. Loprest, a white man with brown hair and brown eyes, stands 5’9” tall and weighs 215 pounds. He was § 87(2)(b) old at the time of the incident.*
- *Lt. Loprest worked from 6:50 a.m. to 3:35 p.m. assigned to Platoon Commander with PO Shazim Khan. He was dressed in uniform and assigned to vehicle #5694.*

Memo Book (encl. E38-E40)

2:52 p.m., back up for an assault in progress at § 87(2)(b) 3:05 p.m., transport one male complainant to 67 Precinct from § 87(2)(b)

CCRB Statement (encl. E42-E43)

Lt. Loprest was interviewed at the CCRB on July 29, 2014. § 87(2)(g)

Lt. Loprest responded to the incident location and authorized arrests there in the past. No weapons were ever involved. Lt. Loprest did not know of § 87(2)(b) having a history of fleeing from police. Lt. Loprest arrived shortly after Sgt. Petrowski and other officers. Sgt. Petrowski told Lt. Loprest that § 87(2)(b) violated an order of protection and they mutually decided to arrest § 87(2)(b). Lt. Loprest could not recall whether § 87(2)(b) was inside or outside when this conversation was had. He did not order any officer to enter § 87(2)(b)'s residence and he could not recall any officers entering her residence. As officers escorted her to the patrol car, § 87(2)(b) was agitated and stating that she had not done anything wrong, but she did not appear injured or to struggle with walking. Lt. Loprest did not hear § 87(2)(b) ask PO Acevedo for his name or shield number.

Other Officers Interviewed (encl. E14-E15)

PO John Denora, the arresting officer, was interviewed at the CCRB on June 11, 2014. It was then confirmed that he was not present for the incident and was only responsible for interviewing § 87(2)(b) and processing the arrest.

NYPD Documents

Complaint and Arrest Report (encl. E5-E9)

The narratives of both the Complaint and Arrest reports, both completed by PO Denora, noted that § 87(2)(b) informed him that § 87(2)(b) told § 87(2)(b) “I will kill you.”

Criminal Court Complaint Report and Complaint Screening Room Sheet (encl. E10-E11)

The Criminal Court Complaint Report repeated that § 87(2)(b) threatened § 87(2)(b). The Complaint Screening Room Sheet noted that § 87(2)(b) and § 87(2)(b) had an extensive criminal history, all of which consisted of § 87(2)(b) being the victim. § 87(2)(b) and § 87(2)(b) engaged in an argument when § 87(2)(b) came outside and yelled, "I will kill you."

Communications CD and Event Summary (encl. F2-F5)

§ 87(2)(b) contacted 911 stating that § 87(2)(b) was harassing and stalking her and her kids. She alleged that § 87(2)(b) almost struck her and her son with his car. The radio calls revealed that Sector 67K received a call which noted, "10-34 neighbor possibly assaulted at § 87(2)(b) Private House - no further information." 67K and 67Lieutenant responded.

Command Log (encl. F9)

§ 87(2)(b)'s command log entry noted that her physical and mental appearance were normal.

Arrest for Incident and Disposition (encl. G1)

- § 87(2)(b) [REDACTED]

Status of Civil Proceedings (encl. D27-29)

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming violation of civil rights, false arrest, false imprisonment, malicious prosecution, severe and serious personal injuries, and pain and suffering seeking an undisclosed amount as redress. As of July 11, 2014, a 50-H hearing had not occurred or been scheduled.

Civilians Criminal History (encl. G2-G45)

- § 87(2)(b) [REDACTED]

Civilians CCRB History (encl. B5-B6)

- This is the first CCRB complaint involving § 87(2)(b) and § 87(2)(b)

Subject Officers CCRB History (encl. B1-B4)

- PO Lau (MOS – 8 years) and Lt. Loprest (MOS – 31 years) have no prior substantiated CCRB allegations against them.
- Sgt. Petrowski (MOS – 7 years) and PO Acevedo (MOS-3 years) have no prior CCRB allegations against them.

Conclusion

Identification of Subject Officers

Sgt. Petrowski, PO Lau, PO Acevedo, and Lt. Loprest acknowledged being present for the incident and interacting with § 87(2)(b) and § 87(2)(b). Therefore, the allegations have been pled against them.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Sgt. Craig Petrowski participated in the entry of § 87(2)(b) in Brooklyn.

It is undisputed that Sgt. Petrowski accompanied PO Lau and PO Acevedo into the living room of § 87(2)(b)'s home in order to arrest her.

It is undisputed that there were no weapons or physical violence involved, but that § 87(2)(b)'s alleged crime was violating an order of protection. It is also undisputed that the officers knew of § 87(2)(b)'s and § 87(2)(b)'s history and that there were no indications of weapons offenses or that § 87(2)(b) had a history of fleeing police.

Factors considered when determining if a warrantless entry is justified include whether there is probable cause to believe that the suspect committed a crime, a belief that the suspect is in the premises being entered, the gravity and violent nature of the offense, whether the suspect is reasonably believed to be armed, the likelihood of escape, and the peaceful circumstances of the entry. People v. McBride, 14 N.Y.3d 440 (2010) (encl. A1-A7). Pursuit of an individual into their residence is justified when there is probable cause to arrest said individual and if the arrest was set in motion while the defendant was in a public place. People v. Skinner, 726 N.Y.S.2d 193 (2001-4th Dept.) (encl. A8).

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Force: PO Johnny Lau used physical force against § 87(2)(b)

Allegation C – Force: PO Steven Acevedo used physical force against § 87(2)(b)

It is undisputed based on statements provided by both the civilians and the officers that § 87(2)(b) was informed that she was under arrest and was asked to stand up multiple times and that she pulled her arms away and refused to comply because she did not believe she had done anything wrong. It is undisputed that PO Lau and PO Acevedo each grabbed an arm to lift § 87(2)(b) from her couch and to handcuff her. She was then escorted outside causing her to receive minor bruises. § 87(2)(b) alleged that this caused an open wound to her arm, which worsened due to her diabetes.

All officers present must use the minimum necessary force during a police incident. Patrol Guide, Section 203-11 (encl. A9-A10).

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: PO Steven Acevedo refused to provide his name and shield number to § 87(2)(b)

PO Lau corroborated § 87(2)(b)'s claim that she requested his and PO Acevedo's names and shield numbers.

PO Acevedo stated that he could not understand what § 87(2)(b) was saying. PO Acevedo could not recall her asking for any officers' name or shield numbers and he did not remember himself providing this information. PO Lau said that § 87(2)(b) asked him and PO Acevedo for their name and shield numbers. PO Lau provided his verbally, but he could not recall PO Acevedo's response or hearing him announcing his name or shield number. Sgt. Petrowski could not recall hearing, and Lt. Loprest denied hearing, § 87(2)(b) request anyone's name or badge numbers.

An officer is to courteously and clearly state his or her rank, name, shield number and command or otherwise provide them, to anyone who requests this information. Patrol Guide, Section 203-09 (encl. A11).

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: 2

Investigator:	_____	<u>Sarah Milardo</u>	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date